IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23-8-2007

CORAM

THE HONOURABLE MR.JUSTICE M.CHOCKALINGAM

W.P.No.13217 of 2007
and
MP No.1 of 2007

Annai J.K.K. Sampoorani Ammal
Charitable Trust
rep. By its
Chairman and Managing Trustee
Thookkanaickenpalayam Post
Gobi Taluk
Erode District 638 506 .. Petitioner

vs

Bharathiyar University
rep. By its
Registrar
Coimbatore 641. .. Respondent

Writ petition filed under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus calling for the records comprised in proceedings No.BU/R/A1/2007/2393 on the file of the Registrar/Bharathiyar University, Coimbatore/respondent dated 16.3.2007 and quash the same and consequently direct the respondent to grant exemption for 2005-2006 batch B.Ed. Course students who are admitted and trained through the petitioner's institution during the academic year 2005-2006 thereby enabling them to get B.Ed. Degree in accordance with law.

For Petitioner : Mr.V.Ayyadurai

For Respondent : Mr.M.Sekar

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ORDER

Challenge is made to the proceedings of the respondent namely Bharathiyar University, represented by its Registrar, made in No.BU/R/A1/2007/2393 dated 16.3.2007, by way of this writ petition for a writ of certiorarified mandamus.

2.The affidavit in support of the writ petition and the counter affidavit are perused. The Court heard the learned Counsel on either side.

3.The only grievance ventilated by the petitioner is that the petitioner institution which was denied affiliation by the University for the year 2005-2006, approached this Court by way of a writ petition in WP No.34923 of 2006. and the same, after hearing both sides, was dismissed by

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this Court on 22.12.2006. While dismissing the petition, this Court permitted the petitioner to approach the Vice Chancellor or Syndicate of the University for the grant of exemption, and the authority may consider the same in accordance with law. Accordingly, the petitioner has made its representation on the very next day. The respondent University through its Registrar served a communication stating that the request of the petitioner for grant of exemption for 2005-2006 batch students to appear in the examination cannot be complied with since affiliation cannot be granted retrospectively. Aggrieved over the same, this writ petition has been brought forth by the petitioner.

4.In support of the writ petition, the learned Counsel Mr.V.Ayyadurai would submit that in the instant case, while the petitioner was permitted to make a representation before the respondent University for exemption thereby enabling the students admitted by the petitioner educational institution, to appear in the examination, the respondent University has not even considered the same, but has denied the same stating that the affiliation could not be granted retrospectively; that even the very reading of the proceedings of the respondent University would clearly reveal that it has neither followed the judgment of this Court nor applied its mind, nor had they adduced any reasons therefor; but, on the contrary, it has refused the exemption without any valid grounds; that it would clearly indicate the non-consideration of the circumstances, and hence, it has got to be quashed.

5.The Court heard the learned Counsel for the respondent on the above contentions. According to him, following the judgment of this court, it is true that a representation was made on 23.12.2006; that it was actually considered by the Syndicate, and in order to allow the students for the examination, there should have been affiliation for the year 2005-2006; but, the institution was not affiliated for that year, and under the circumstances, the request of the petitioner was rightly denied, and the said proceedings were informed to the petitioner by the said communication, and it has been made pursuant to the orders of the Court and in accordance with law, and hence, the writ petition has got to be dismissed.

6.The Court paid its anxious consideration on the submissions made.

7.It is not in controversy that the petitioner educational institution was not granted with the affiliation for the year 2005-2006. But, the affiliation was granted positively from 2006 onwards. It is also not in controversy that the students were admitted by the educational institution for the year 2005-2006 also. The petitioner approached this Court by filing a writ petition in WP No.34923 of 2006, which came up for orders before this Court. After hearing both sides, the said writ petition was dismissed. While doing so, this Court has observed as follows:

> "58..... However, it is open to the petitioner to approach the Vice Chancellor or the Syndicate of the University for the grant of exemption and if the petitioner chooses to do so, the Appropriate Authority may consider the same in accordance with law."

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8.Consequent upon the above order of this Court, the petitioner made its representation to the University on the very next day i.e., 23.12.2006. The request of the petitioner through that representation has been denied by the respondent under the impugned proceedings stating that the request of the petitioner for grant of exemption could not be complied with since the affiliation could not be granted retrospectively. The very reading of the proceedings of the University as communicated to the petitioner, which is under challenge, would clearly indicate that the request of the petitioner for grant of exemption could not be granted since the affiliation could not be granted retrospectively. It is quite evident from all the proceedings pending between the parties that there was no affiliation for the petitioner institution for the year 2005-2006. Even the request of the petitioner before this Court through the earlier writ petition was also denied, and that writ petition has been dismissed. However, the petitioner was permitted to submit its representation before the respondent, and the respondent was also directed to consider the same. Thus, it would be quite clear that such a situation presupposes that there was no affiliation for 2005-2006 at all. Pending non-affiliation for the said period 2005-2006, as per the orders of this Court, the representation by the petitioner could be made. Accordingly, it has been done. But, the respondent University has denied the exemption stating that affiliation could not be granted retrospectively. It remains to be stated that no question of grant of affiliation retrospectively would arise. Even assuming that there was no affiliation of the institution for the period 2005-2006, the exemption could be considered under the stated circumstances. Whether exemption could be granted to the institution for its students to appear in the examination in the absence of the affiliation should be considered. But, the reason adduced for the denial of exemption by the University was that the affiliation was not available for the period 2005-2006, and affiliation cannot also be granted retrospectively. Thus, it would be quite clear that the University has not considered in the proper perspective which would require that the proceedings of the University have got to be quashed. This Court is of the view that the representation of the petitioner educational institution for grant of exemption has got to be considered.

9.However, it is made clear that in the absence of the affiliation of the institution for the year 2005-2006, whether the exemption could be granted or not has got to be considered by the University. Accordingly, the proceedings of the respondent are quashed, and the University is directed to consider the representation of the petitioner within a period of two weeks herefrom in accordance with law.

10.Hence, this writ petition is allowed. No costs. Consequently, connected MP is closed.

nsv/

Sd/-
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To:

The Registrar,
Bharathiyar University
Coimbatore 641.

+1 cc to Mr.R.Ayyadurai, Advocate Sr.No.52613.

+1 cc to Mr.M.Sekar, Advocate Sr.No.52724.

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